

claims together in the present application. Accordingly, Applicants traverse the restriction requirement.

Applicants expressly reserve the right under 35 USC §121 to file a divisional application directed to the non-elected subject matter or any subject matter disclosed in this application during the pendency of this application.

Election of Species Requirement

The Office Action required that if Group I is elected, Applicants elect one species from each of the following:

**A. Condition:**

idiopathic pulmonary fibrosis;  
sarcoidosis;  
chronic obstructive pulmonary disease;  
cystic fibrosis;  
chronic exposure to an irritant;  
chronic viral infection of the lungs;  
chronic mycoplasma infection of the airways; and  
chronic bacterial infection of the lungs.

**B. Nucleotide sequences:**

5'-purine-purine-cytosine-guanine- pyrimidine-pyrimidine-3';  
5'-purine-TCG-pyrimidine-pyrimidine-3';  
5'-(TGC)<sub>n</sub>-3', where  $n \geq 1$ ;  
5'-TCG-N-N-3'; where n is any base;  
5' N<sub>m</sub>-(TCG)<sub>n</sub>-N<sub>p</sub>-3', wherein N is any nucleotide, wherein m is zero, one, two, or three, wherein n is any integer that is 1 or greater, and wherein p is one, two, three, or four; and  
5' N<sub>m</sub>-(TCG)<sub>n</sub>-N<sub>p</sub>-3', where N is any nucleotide, wherein m is zero to 5, wherein n is any integer that is 1 or greater, wherein p is four or greater, and wherein the sequence N-N-N-N comprises at least two CG dinucleotides that are either contiguous with each other or are

separated by one nucleotide, two nucleotides, or three nucleotides.

**C. Routes of administration:**

to the respiratory tract of the individual;  
intranasally; and  
systemically.

Applicants hereby elect the following species, with traverse.

- A. Idiopathic pulmonary fibrosis.
- B. 5'-(TCG)<sub>n</sub>-3', where n = 1; and
- C. systemically.

As set forth in 37 C.F.R. §1.146 and MPEP §808.01(a), an election of species requirement is proper where an application contains claims to more than a reasonable number of species, and where there would be a serious burden on the examiner if restriction were not required.

It is Applicants' position that the number of species set forth in the Office Action is not unreasonable, and that it would not be a serious burden on the examiner to perform a search on each of the species.


## II. CONCLUSION

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, order number UCSD-292.

Respectfully submitted,

BOZICEVIC, FIELD & FRANCIS LLP

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By: 

Paula A. Borden  
Registration No. 42,344

BOZICEVIC, FIELD & FRANCIS LLP  
1900 University Avenue, Suite 200  
East Palo Alto, California 94303  
Telephone: (650) 327-3400  
Facsimile: (650) 327-3231